

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 12647 (Application 24219A)

Heublein, Inc. – B.V.9

**ORDER CORRECTING THE DESCRIPTION OF THE
POINT OF DIVERSION AND THE PLACE OF USE,
ADDING OR UPDATING STANDARD LICENSE TERMS, AND
ISSUING AMENDED LICENSE**

SOURCE: an Unnamed Stream (aka Buhman Creek) in Napa County tributary to Napa River thence
San Pablo Bay

COUNTY: Napa

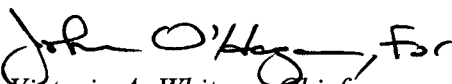
WHEREAS:

1. The Division of Water Rights (Division) issued License 12647 pursuant to permitted Application 24219A on May 30, 1990. License 12647 was recorded with the County Recorder of Napa County in Book 18242, Volume 1749, pages 79-82.
2. The Division issued an Order on December 29, 1992 amending License 12647 correcting the description of the Point of Diversion to offstream storage.
3. The Division conducted a pre-license inspection of the companion filing covered by Permit 17720B (Application 24305B) on August 1, 2002. The data collected for the Point of Diversion to offstream storage and Place of Use were found to be incorrectly described in License 12647. The Place of Use is being reduced from 143 acres to 58.7 acres.
4. The State Water Resources Control Board (State Water Board) standard license terms pertaining to enlargement of reservoirs, continuing authority, water quality objectives, protection of endangered species, and the need for a State Department of Fish and Game stream alteration agreement shall be updated or added to the amended license.
5. The State Water Board has determined the amended license does not constitute an initiation of a new right, and does not injure prior rights or the public trust resources of the State.

THEREFORE, IT IS ORDERED:

The attached Amended License 12647 is issued, superseding former License 12647 issued on May 30, 1990. The priority of Amended License 12647 is October 26, 1972.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: **MAR 06 2006**



STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 24219A
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PERMIT 17724A

LICENSE 12647

THIS IS TO CERTIFY, That

Heublein, Inc. – B.V.9
c/o Drew Aspegren
Napa Valley Vineyard Engineering
176 Main Street, Suite B
St. Helena, CA 94574

has the right to the use of the waters of an **Unnamed Stream (aka Buhman Creek)** in **Napa County**
tributary to **Napa River thence San Pablo Bay**
for the purpose of **Irrigation use**.

Amended License 12647 supersedes the license originally issued on **May 30, 1990**, which was perfected in accordance with the laws of California, the Regulations of the State Water Resources Control Board (SWRCB), or its predecessor, and the terms of **Permit 17724A**. The priority of this right dates from **October 26, 1972**. Proof of maximum beneficial use of water under this license was made as of **April 25, 1989 and August 1, 2002** (the dates of inspection).

The amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed **forty-nine (49) acre-feet per annum to be collected from November 1 of each year to May 15 of the succeeding year. The maximum withdrawal in any one year shall not exceed 49 acre-feet.**

The maximum amount of water collected to storage under this license and the license issued pursuant to Application 24305B shall not exceed 73 acre-feet per year.

The maximum rate of diversion to offstream storage shall not exceed 12 cubic feet per second.

The capacity of the reservoir covered by this license and the license issued pursuant to Application 24305B shall not exceed 73 acre-feet.

This license does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

Unless a change is approved by the SWRCB, water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION TO OFFSTREAM OF SUCH WATER IS LOCATED:

By California Coordinate System of 1927, Zone 2, North 218,719 feet and East 1,905,918 feet, being within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M.

THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:

At Carneros Reservoir within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

9.6 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
0.7 acre within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
9.9 acres within SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
18.1 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
0.1 acre within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
20.3 acres within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M

58.7 acres total, as shown on map on file with the SWRCB.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

Reports shall be filed promptly by the licensee on the appropriate forms which will be provided for the purpose from time to time by the SWRCB.

Licensee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this license.

Pursuant to Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

If construction or rehabilitation work is required for the diversion works covered by this license within the bed, channel, or bank of the affected water body, the licensee shall enter into a streambed or lake alteration agreement with the State Department of Fish and Game. Licensee shall submit a copy of the agreement, or waiver thereof, to the Division of Water Rights prior to commencement of work. Compliance with the terms and conditions of the agreement is the responsibility of the licensee.

This license is granted and the licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

Dated:

MAR 06 2006

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 24219A PERMIT 17724A LICENSE 12647

ORDER CORRECTING POINT OF DIVERSION

WHEREAS:

1. License 12647 was issued to Beaulieu Vineyards on May 30, 1990 and was recorded with the County Recorder of Napa County in Volume 1749, Page 79 on June 25, 1990.
2. License 12647 was subsequently assigned to Heublein, Inc. B.V. 9.
3. A review of the file was conducted by the State Water Resources Control Board (State Water Board) staff on September 9, 1992. It was determined that the description of the point of diversion, was incorrectly described as being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, and therefore should be corrected.
4. The State Water Board has determined the above correction will not initiate a new right nor operate to the injury of any other lawful user of water and that good and sufficient cause has been shown for said correction.


NOW, THEREFORE, IT IS ORDERED THAT:

1. The description for the point of diversion under this license shall read as follows:

South 2,150 feet and East 1,950 feet from the NW corner of Section 20, T5N, R4W, MDB&M, being within the SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section; also described as California Coordinate System, Zone 2, N 218,000 and E 1,906,000.

(0000002)

Dated: DECEMBER 29 1992


for. Edward C. Anton, Chief
Division of Water Rights



STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

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APPLICATION

24219A

PERMIT

17724A

LICENSE

12647

THIS IS TO CERTIFY, That

Beaulieu Vineyards (mer)
c/o Drew Aspegren
Napa Valley Vineyard Engineering, Inc.
176 Main Street, Suite B
St. Helena, CA 94574

has made proof as of April 25, 1989 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
an Unnamed Stream (aka Buhman Creek) in Napa County

tributary to Napa River thence San Pablo Bay

for the purpose of Irrigation use

under Permit 17724A of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from October 26, 1972 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed forty-nine (49) acre-feet per annum to be collected from November 1 of each
year to May 15 of the succeeding year. The maximum withdrawal in any one year shall not exceed 49 acre-feet.

The maximum rate of diversion to offstream storage shall not exceed 12 cubic feet per second.

This license does not authorize collection of water to storage outside of the specified season to offset
evaporation and seepage losses or for any other purpose.

(0000005)

THE POINT OF DIVERSION TO OFFSTREAM STORAGE OF SUCH WATER IS LOCATED:

South 2,150 feet and East 1,950 feet from NW corner of projected Section 20, T5N, R4W, MDB&M, being within SW $\frac{1}{4}$
of NW $\frac{1}{4}$ of said Section 20.

THE PLACE OF STORAGE OF SUCH WATER IS LOCATED:

At Carneros Lake within NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

0.5 acre within NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
40.5 acres within E $\frac{1}{2}$ of NW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
6 acres within SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
31 acres within W $\frac{1}{2}$ of SE $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
3 acres within NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
45 acres within S $\frac{1}{2}$ of SW $\frac{1}{4}$ of projected Section 20, T5N, R4W, MDB&M
6 acres within NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of projected Section 29, T5N, R4W, MDB&M
11 acres within NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of projected Section 29, T5N, R4W, MDB&M

143 acres total, as shown on map on file with State Water Resources Control Board.

Licensee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: **MAY 30 1990**

STATE WATER RESOURCES CONTROL BOARD

Roger Johnson
Chief, Division of Water Rights